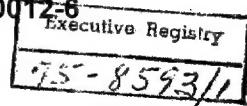


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23 September 1975

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MEMORANDUM FOR: [REDACTED]

Special Counsel to the DCI

SUBJECT

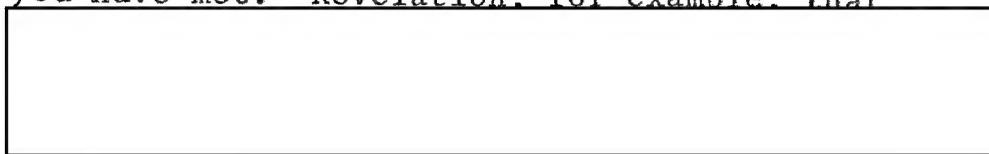
: Attachment B To Your 23 September 1975
Memorandum

I have two problems with your 23 September note's attachment b.

a. First, I think the double test outlined in its opening paragraph is too stringent on several counts.



2. The test of being "seriously detrimental to the national interests" is ambiguous but could be construed as a very difficult one to meet, or at least one difficult to prove that you have met. Revelation, for example, that



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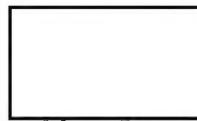
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3. My suggestion, or at least my preference, would be to substitute a disjunctive "or" for your underlined "and," thus setting up two tests, either of which must be met but not necessarily both. I would also like to see "current" struck from the first test and "seriously" struck from the second.

b. As I read the memorandum it suggests a two-tiered approach where I think at least three tiers are necessary. There should be a provision for information which will not be shown to the Committee at all, such as the specific names of specific agents or details about people who have cooperated with us in any way where these details could conceivably pinpoint their identity or drastically narrow the process of search for those who would like to identify them. This thought is implicit in your language but I think it needs to be made more precise. Also, if this is possible (and politically it may well not be) I wish there could be some provision for highly sensitive information which we would be willing to make available to the Committee chairman and the ranking minority member, but not to the Committee in its entirety, or even a provision under which certain information would be made available to the actual committee but not to ~~key~~ members of its staff.

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George A. Carver, Jr.
Deputy for National Intelligence Officers

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ER

EXECUTIVE SUMMARY
75-8593

Approved For Release 2004/10/28 : CIA-RDP80M01066A000800250012-6

23 September 1975

MEMORANDUM FOR: Morning Meeting Participants

Attachment A was prepared by Attorney General Levi and presented to the members of the Intelligence Coordinating Group at the White House at 9:00 this morning.

We were also asked to submit a one-paragraph statement of each Agency's "solution" with respect to the current impasse. Your comments on the attached draft (Attachment B) will be appreciated. We should be getting our paragraph to the White House by the close of business today. Consequently, I don't believe we can wait until after the 5:30 meeting.

[Redacted]
Special Counsel to the Director

25X1

Initials memo to:

IA/DCI

D/DG/ADIC

DCI

Ass't/DCI Human
Review Staff/Bulletin

DDCIS

SC/DCI

DDO

ES

DDS/T

DDA

D/ES

D/DCI/TIC

Compt

OG-8

IG

D/DCI

Approved For Release 2004/10/28 : CIA-RDP80M01066A000800250012-6

Memorandum as to Some of the Issues Raised

1. On the power of Congress to declassify documents --

It can be said that Congress does not have the right to declassify documents, and most certainly not without congressional legislation. It can be urged that it is constitutionally impermissible for Congress to declassify documents classified by the President in the national security and foreign affairs area. One can cite Justice Stewart's opinion (joined by Justice White) in the Pentagon Papers, 403, U.S. 713, 729-30, and the Nixon case, 418 U.S. 683, 704 (1974).

But the argument about this right somewhat misses the point. A Congressional committee may have no right to declassify a document, but it has the power to publish the document in its possession. The publication then places the writing in the public domain and works the declassification--a tantamount declassification. There is no legal remedy through the courts for the Executive to punish or restrain the publication. See Gravel v. U.S. 606 (1972); Doe v. MacMillan, 412 U.S. 306 (1973).

2. On the right of the President to withhold documents whose disclosure would be harmful to the interests of the United States when there is no assurance that necessary confidentiality will be maintained.

The Supreme Court in the Nixon case for the first time explicitly recognized that there is an executive privilege constitutionally based. In a more general way, the privilege to withhold may arise out of statutory assigned duties, but, of course, those statutes can be changed. For the situation at hand, it seems clear that the President faced with the threat and the likelihood of the exercise of the congressional committee's ability to accomplish public dissemination, has the right and the duty to withhold particularly sensitive documents until he has received satisfactory assurances. If the document is sufficiently sensitive, it is almost certain this right would be upheld against a subpoena. But the necessity for confidentiality must be well based. I do not believe the withholding would be upheld as a sanction but rather as a necessary protection of a

particular document because of the effects of its disclosure. It would be well to recognize even when a strong claim of privilege can be advanced, that the scope of the privilege is not sufficiently defined in cases, that to some extent it is constitutionally based on the necessity to protect the decision-making process, but that when so viewed it may be quite narrow, that it is broader for those areas constitutionally assigned to the President, but in those areas, the Congress also has powers.

3. The suggested approach

The approach should be one of seeking to obtain from the Select Committees appropriate assurances that they will maintain the confidentiality of the documents where in the judgment of the Executive disclosure would be seriously harmful to the interests of the nation.

It should be made clear continually that the Executive is not seeking to withhold documents from the Committees, although in collaboration with the Committees there should be agreements (as there has been with the Church Committee) on certain most sensitive information which may be deleted.

But that the right of the Committees (Select Committees) to have the documents (1) can be suspended if the Committee's conduct and lack of assurances threatens the security of the information, and (2) is not tantamount to a right in the Committee to release the information.

Since as the President has indicated, classification may have been overused, it would be appropriate to make sure that documents withheld do come within the President's privilege.

One must expect that in a court test the privilege may be narrowly defined in terms of particular documents or parts of documents.

9/23/75
FHL

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Draft Statement of CIA Position with Respect
to Production of Classified Materials

The DCI will review all materials sought by the Committee to determine whether such information:

1. concerns or affects current foreign operations or activities whose existence has heretofore never been formally acknowledged; and
2. the disclosure of which would be seriously detrimental to the national interest.

If the DCI determines that particular materials sought by the Committee do concern or affect secret current foreign operations or activities, the disclosure of which would be seriously detrimental to the national security, he will make such materials available to the Committee only upon appropriate prior assurances by the Committee that it will not make public disclosure of them and only after deleting specific sources and methods.

If the DCI determines that particular materials sought by the Committee do not concern secret current foreign operations or activities, or disclosure of which would not be seriously detrimental to the national interest, he will delete references to specific sources and methods of intelligence and make the materials available to the Committee. With respect to the classified materials therein, the Committee will not publicly disclose such materials until it has given the DCI reasonable

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notice and opportunity to consult with the Committee prior
to making public disclosure.

Appropriate verification of the deleted materials will
be arranged between the Committee and the DCI.

XR 75-11,542

Executive Registry

75-11,546

CENTRAL INTELLIGENCE AGENCY

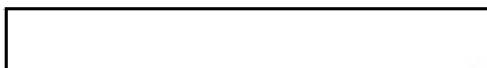
OFFICE OF THE DIRECTOR

23 Sept 75

Please LDX immediately to

Mr. John Marsh Jr.
Counsellor to the President
The White House

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I-23,1

EXECUTIVE REGISTRY FILE

~~COORDINATED~~

~~HQ~~

~~DOB~~

~~AMOUNT~~

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notice and opportunity to consult with the Committee prior
to making public disclosure.

Appropriate verification of the deleted materials will
be arranged between the Committee and the DCI.

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CENTRAL INTELLIGENCE AGENCY
WASHINGTON, D.C. 20505

25-8553/4

23 September 1975

The Honorable John O. Marsh, Jr.
Counselor to the President
The Situation Room
The White House
Washington, D. C. 20500

Dear Jack:

As an outgrowth of the September 22 Intelligence Coordinating Group meeting, I requested responses to the following six questions:

- (1) An inventory of all requests received from both the Senate and House Select Committees on Intelligence.
- (2) Of these requests for information, how many are still pending?
- (3) An estimate of the volume (by linear feet) of material made available to these committees, either delivered to the committees or made available here at Headquarters.
- (4) The number of employees and ex-employees interviewed by the committees as well as the number of briefings conducted at Headquarters.
- (5) Employee time spent in answering SSC and HSC requests.
- (6) Identify "silly" requests from the HSC and the SSC.

With respect to Item 1, the four notebooks containing the requests received from both committees are attached. After they have served your purposes, it would be helpful if they could be returned. The responses to items 2-6 are attached. I am also forwarding the responses from the Intelligence Community Staff covering the same questions.

(EXECUTIVE REGISTRY FILE)

Intelligence Community Staff



75-X5236
S

With respect to the requirements set forth in your September 22 memorandum to the Intelligence Coordinating Group, I forwarded Item 1 relating to key issues to you yesterday. There is also enclosed a list of the current requests from committees other than the select committees seeking material or witnesses from the CIA.

Item 2 (b) has already been answered in Paragraph 1 above. Items C, D, E, and F will be supplied at a later time.

Cheers,



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Special Counsel to the Director

Attachments: As Stated (SECRET)

Distribution:

DCI
DDCI
C/Review Staff
IC Staff [redacted]
SC/DCI
ER.

25X1

22 September 1975

The Honorable John O. Marsh, Jr.
Counselor to the President
The White House
Washington, D. C.

Dear Jack:

Enclosed are two documents of interest to you -- the first, the list of issues discussed at the morning meeting. With respect to each of these issues, presumably judgments will be sought regarding their legal, policy and political ramifications.

As a pleasant surprise, you may wish to take a look at pages 96-98 of the Report of the Select Committee on Committees, U. S. House of Representatives, dated 21 March 1974. If the House would consider the formula spelled out in this proposal, I am sure we could live very comfortably with it.

Cheers,



25X1

Special Counsel to the Director

Attachments

O/DCI, [redacted]

Distribution:

Original - Addressee w/atts (handcarried to Situation Room at 1900
on 22 Sept 75)

1 - SC/DCI w/cy atts

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1 - DCI w/cy atts

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(EXECUTIVE REGISTRY FILE *Coordinating Groups*)

White House

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LM--Your Copy

Calendar No. 297

93d Congress
2d Session

HOUSE OF REPRESENTATIVES

REPT. 93-916
PART II

COMMITTEE REFORM AMENDMENTS OF 1974

REPORT
OF THE
SELECT COMMITTEE ON COMMITTEES
U.S. HOUSE OF REPRESENTATIVES
TO ACCOMPANY
H. Res. 988
Together With
SUPPLEMENTAL VIEWS



MARCH 21, 1974.—Referred to the House Calendar
and ordered to be printed

both branches, but where changed circumstances of public policy require some extraordinary move to declassify, possibly over the objections of one branch.

A Proposal To Meet Problems of National Security Information

The select committee discussed whether to mandate new rules and their application in the reported House resolution, or whether merely to include a study of the problem in the appendix to this report. Its decision has been to take a middle ground. Because actual changes in the rules will require more study and debate than the present occasion makes available, and because the matter is simply too important to relegate to an appendix, the select committee includes these recommendations on access to and handling of classified information in the report itself.

The select committee strongly suggests that the House must take the initiative to create an orderly set of rules which govern the receipt, use, storage, and dissemination of national security information and intelligence. These rules should be designed in such a way as to give the same quality of protection as is afforded by the executive branch, but not to tie the hands of the House when overriding considerations of national policy require a change from the restrictions imposed on such information by its originators in the executive branch of Government. These exceptions will require the most careful consideration if the House is to receive sensitive information. As further thought will reveal, the issues are complex, and no abstract set of rules may cover every possible contingency in an unknown future.

To facilitate action by the House, the select committee recommends study of the draft language which follows this paragraph. Members of the select committee did not vote to approve this language as a concrete recommendation for enactment, or it would have been a part of the reported resolution. But it did reach a consensus that the language presented here would be a useful step in translating discussion from generalities to a number of specific issues, and hence it is offered to the House for serious consideration.

In clause 3 of Rule X, add the following new paragraph:

"(1) The Committee on Armed Services [, and] the Committee on Appropriations [, and the Committee on Foreign Affairs] shall each have a subcommittee on intelligence consisting of members appointed (without regard to seniority) by the Speaker with the concurrence of the chairman of the committee. Such subcommittees may meet separately on matters within the jurisdiction of their respective committees, or jointly on matters which are of common concern or affect the House generally.

"(2) The two [three] subcommittees meeting jointly shall constitute the special committee on intelligence, and as such shall have responsibility for (A) preparing and maintaining a manual to govern the protection of classified national security information, including

the provision of secure ~~safe~~
personal clearance procedure
and individual Members. (B)
be required to implement this
with executive branch agency
of employees needing to work
branch agencies for field work
providing for the effective
and procedures relating to
the House under clause 5.

Insert in Rule X the following clause according to

"Handlirre"

"5. (a) All information as by any committee or Member higher as a national security deemed to have been received subject to all of the rules as the disclosure of activities at a session. No such information person other than a Member have been properly cleared of information or data in the u

"(b) Any Member or employee shall be notified of it disclosure. If in the judgment there is special sensitivity the information otherwise than participation) the Member acknowledgement that he or restrictions on disclosure.

"(c) Each Member or e
classified national security in
a security manual governin
copies of applicable statutes
penalties for unauthorized c
clearance standards and pro
the same standards of prot
branch) shall be prepared l
and conenrged in by the Spec

"(d) House employees (w/
staffs of Members), before th
national security informatio
of investigation and certifica
sensitivity involved, followin
branch.

the provision of secure storage and the establishment of appropriate personal clearance procedures for staff employees of both committees. Individual Members, (B) maintaining such central records as may be required to implement this paragraph, (C) maintaining such liaison with executive branch agencies as will expedite the orderly investigation of employees needing clearance, and contracting with executive branch agencies for field work and searches of files, and (D) otherwise providing for the effective conduct and administration of activities and procedures relating to the handling of classified information in the House under clause 5.

Insert in Rule X the following new clause (and renumber the preceding clause accordingly):

"Handling of Classified Information

"5. (a) All information and data whether written or oral received by any committee or Member of the House which is classified Secret or higher as a national security matter by the originator shall be deemed to have been received in executive session, and shall be subject to all of the rules and procedures of the House which restrict the disclosure of activities conducted and matters presented in executive session. No such information or data shall be disclosed to any person other than a Member, except to those House employees who have been properly cleared and can demonstrate a need to have such information or data in the performance of their official duties as such.

(b) Any Member or employee receiving such classified information or data shall be notified of its classification and the restrictions on its disclosure. If in the judgment of the person providing the information or data there is special sensitivity (or in the case of a Member receiving the information otherwise than in the normal course of his committee participation) the Member or employee may be required to sign an acknowledgement that he or she understands and will abide by the restrictions on disclosure.

"(c) Each Member or employee who receives or may receive classified national security information or data shall be provided with a security manual governing its use and protection, together with copies of applicable statutes on the protection of official secrets and penalties for unauthorized disclosure thereof. Such manual and the clearance standards and procedures for the House (which shall meet the same standards of protection as those applied in the executive branch) shall be prepared by the special committee on intelligence and concurred in by the Speaker and the minority leader.

"(d) House employees (whether on committee staffs or on personal staffs of Members), before they may receive or be exposed to classified national security information or data, must be cleared by a process of investigation and certification which is appropriate to the level of sensitivity involved, following the criteria which apply in the executive branch.

"(e)(1) When a Member receives classified national security information or data otherwise than in the course of his or her committee activities, and believes it is over- or under-classified, he or she may request of the special committee on intelligence that such information or data (in the House) be declassified, or reclassified at another level, as appropriate.

"(2) When a Member receives classified national security information or data in the course of his or her committee activities, and believes it is over- or under-classified, he or she may request consideration of a change in classification by the committee. If the committee by majority vote agrees to the change, it may request such change of the special committee on intelligence.

"(3) The special committee on intelligence, if it agrees with any change requested under subparagraph (1) or (2), shall report its agreement with such change to the Speaker and the minority leader, and if they concur, the change shall automatically be made. If the decision of the special committee or of the leadership is adverse to such change, an appeal may be taken to the floor, in closed door session, at the direction of a majority of any committee.

"(4) Prior to any action by a Member or committee or the special committee on intelligence with respect to the reclassification of any information or data under this subparagraph, such reclassification shall be requested of the originator of the information or data, with a response requested within a period of seven legislative days. Such action shall not be taken prior to the conclusion of such period except in case of an emergency requiring immediate consideration by the House.

**TECHNICAL DE
RESOLUTION**

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Routing Slip

TO:		ACTION	INFO	DATE	INITIAL
1	DCI		X		
2	DDCI		X		
3	S/MC				
4	DDS&T		X		
5	DDI		X		
6	DDA		X		
7	DDO		X		
8	D/DCI/IC		X		
9	D/DCI/NIO		X		
10	GC		X		
11	LC		X		
12	IG		X		
13	Compt		X		
14	D/Pers				
15	D/S				
16	DTR				
17	Asst/DCI		X		
18	AO/DCI				
19	C/Review Staff	X			
20	SC/DCI		X		
21	D/OCI		X		
22					
	SUSPENSE			Date	

Remarks:

This will be discussed at the 5:30 meeting
this afternoon.

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22 September 1975

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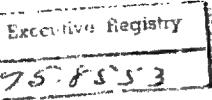
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THE WHITE HOUSE
WASHINGTON

9/19/75

The enclosed memorandum from the President should be delivered to the Director as soon as possible.



THE WHITE HOUSE

WASHINGTON

September 19, 1975

MEMORANDUM FOR

THE SECRETARY OF STATE
THE SECRETARY OF DEFENSE
THE DIRECTOR, OFFICE OF MANAGEMENT AND BUDGET
THE DIRECTOR, CENTRAL INTELLIGENCE AGENCY
PHILIP W. BUCHEN
JOHN O. MARSH, JR.

As a result of our meeting on intelligence matters, I have decided to designate a group specifically responsible for coordinating our response to matters dealing with the intelligence community. This group will be chaired by Jack Marsh. Each of the addressees of this memorandum shall serve as a member of the group.

I expect the group to function over the next several weeks and possibly months in a manner similar to the Energy Resources Council and Economic Policy Board, that is:

1. The group should meet daily to review problems, discuss strategy, agree on assignments and prepare issues for my decision.
2. The group will meet with me regularly, as often as twice a week, in order for me to decide issues and review progress.
3. I expect the group to produce by the middle of next week a time table of its actions over the next month including:

Due dates for decision papers;
Development of a comprehensive plan for dealing with Congress and the press; and
Identification of individuals charged with specific responsibilities.

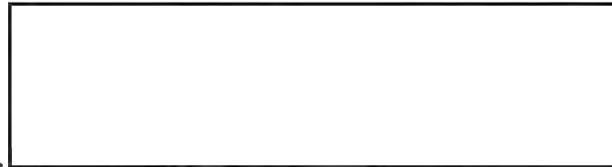
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22 September 1975

MEMORANDUM FOR: Morning Meeting Participants

1. We were asked this morning at the White House to develop a list of "Significant Questions Relating to House Select Committee's Unilateral Declassification of Documents." The list is intended as a short-range list of problems in the hope that the process of answering the questions might better sharpen executive branch thinking. The questions will eventually be answered as a matter of law, as a matter of policy and as a matter of politics. The list is only tentative at this time and your additions will be appreciated. A copy of my draft is attached.

2. I am also attaching for your consideration a document entitled "Positions to be Taken on Handling of Classified Documents by House Select Committee." This was prepared by Phil Buchen and is intended to represent alternatives. Your comments with respect to this document will also be helpful - at the meeting at 5:30 pm today.



25X1

Special Counsel to the Director

Attachments:

1. Significant Questions List
2. Positions to be Taken on Handling of Classified Documents by House Select Committee.

I-23.1

(EXECUTIVE REGISTRY FILE ~~for coordination~~)

**Positions to be Taken on Handling
of Classified Documents by
House Select Committee**

<u>Committee Proposals</u>	<u>Alternatives</u>
(1) Deletion of identities of human sources.	(1) Expressly include deletion of other sensitive items, including identities of collaborators or cooperating entities and including technical information.
(2) Pre-designation of other sensitive information but without deletion.	(2) Require Committee after receipt of documents to designate which ones or parts it desires to disclose publicly.
(3) Imposition of notice period (24 hrs.) for commenting on declassification.	(3) Longer notice period.
(4) Resolution of unresolved declassification issues by action of the Committee.	(4) Deferral of unresolved declassification issues until Committee finds information in question is important to its final report to the House, when if the matter still cannot be resolved, it can be considered by the House as a whole in executive session after consultation between the President and the House Leadership.
	(5) Reasonable turn-around time on Committee requests for documents, with chance to negotiate on imprecise, burdensome, or irrelevant requests.

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PRIORITY

FORM NO. 160 Use Previous Editions
1-67 (13)

N TOP AND BOTTOM	
INITIAL	SECRET
G SLIP	

75-11-508

	NAME AND ADDRESS	DATE	INITIALS
1	Assistant to the Director		
2			
3			
4			
5			
6			
ACTION	DIRECT REPLY	PREPARE REPLY	
APPROVAL	DISPATCH	RECOMMENDATION	
COMMENT	FILE	RETURN	
CONCURRENCE	INFORMATION	SIGNATURE	

Remarks:

Attached are:

- a. Draft of positions to be taken on House Select Committee documents;
- b. Draft of possible statement on the issues.

These will be discussed at the Tuesday morning interagency meeting and should be discussed at 5:30 this afternoon.

WEC

FOLD HERE TO RETURN TO SENDER			
FROM: NAME, ADDRESS AND PHONE NO.		DATE	
DCI		22 Sep 75	
UNCLASSIFIED	CONFIDENTIAL	SECRET	

FORM NO. 237 Use previous editions
1-67

GPO : 1974 O - 13-857

(40)

I do not know what they are doing
 w/atts sent to:
 D/DCI D/DCI/SC
 DDO
 DDI
 D/OCI
 D/NIO
 DDSAT
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 ass. DCI
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 DDA
 OYC
 Recruit Staff
 DDCT
 EA/DCI
 ES
 EA/DDCI
 SC/DCI

**Positions to be Taken on Handling
of Classified Documents by
House Select Committee**

<u>Committee Proposals</u>	<u>Alternatives</u>
(1) Deletion of identities of human sources.	(1) Expressly include deletion of other sensitive items, including identities of collaborators or cooperating entities and including technical information.
(2) Pre-designation of other sensitive information but without deletion.	(2) Require Committee after receipt of documents to designate which ones or parts it desires to disclose publicly.
(3) Imposition of notice period (24 hrs.) for commenting on declassification.	(3) Longer notice period.
(4) Resolution of unresolved declassification issues by action of the Committee.	(4) Deferral of unresolved declassification issues until Committee finds information in question is important to its final report to the House, when if the matter still cannot be resolved, it can be considered by the House as a whole in executive session after consultation between the President and the House Leadership.
	(5) Reasonable turn-around time on Committee requests for documents, with chance to negotiate on imprecise, burdensome, or irrelevant requests.

In the 94th Congress both the House and the Senate established Select Committees to review the intelligence activities of the federal government. It is important that the American people understand the issue that has arisen over the investigation being conducted by the Select Committee of the House of Representatives.

The delivery to the Committee of classified information is not an issue, nor is it a quarrel over a few words. At the outset, let me say I will not allow the use of classification to cover up the failures of our intelligence community, or conceal criminal behavior.

Indeed, at the very beginning of these hearings, I ordered all agencies of the Executive Branch to cooperate with the House and Senate Committees investigating the intelligence agencies. An extensive amount of classified material has already been supplied to both Houses. Some of it has been declassified by the Executive Branch. Some of the information admits to serious intelligence failings.

The single issue in the dispute with the House Committee is whether one Congressional Committee may release unilaterally for publication any classified information it receives from the Executive Branch no matter how sensitive.

I am firmly opposed to such action for very fundamental reasons.

First, there is the high risk of doing immediate and irreparable damage to our intelligence operations. This is why the CIA opposed declassification and publication of four words in a report concerning the Middle East war. Whatever intelligence risks are involved by this

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revelation is not, however, the central issue. I am concerned that with scores of Committees and subcommittees in Congress, there is a risk of great damage to our intelligence capabilities and to the security of the country if any Committee can assert the unilateral right to declassify information.

The Director of Central Intelligence is charged by law with protecting the sources and methods of intelligence. He has traditionally complied with requests from Congressional committees for sensitive intelligence, and it is my wish that he continue to do so. I believe it is unreasonable, however, that he should face the prospect that the very material he has supplied to one Committee may be released to the world at large notwithstanding his objections.

Second, and equally important, there is the longer term damage that may be inflicted on our intelligence capabilities and the conduct of our foreign relations.

Through the years Congress has shown a serious concern with the protection of sensitive intelligence operations. This is embodied in innumerable laws, such as the Atomic Energy Act. Even now, the House of Representatives has recognized adverse consequences of disclosing our intelligence activities in the Resolution establishing the Select Committee.

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sometimes impossible to replace once compromised.

Foreign governments will inevitably lose confidence over this government's capacity to operate in international affairs if they cannot rely on our ability to protect sensitive material and operations. One of the most important assets of our intelligence operations is the willingness of other intelligence agencies to assist and cooperate with our own. Our credibility will be eroded if they come to believe that we cannot protect a confidential relationship. And no government can deal with us candidly if their communications, diplomatic and private, were to be exposed around the world.

Finally, as President and Commander-in-Chief, I am charged by the Constitution with the responsibility for providing for the common defense and conducting our foreign relations. Intelligence operations in the modern era are indispensable to the performance of my Constitutional obligations. Most of the operations of intelligence agencies are inherently confidential and this was well understood when President Truman with broad bipartisan Congressional support created the Central Intelligence Agency in 1947.

Through the years, the Congress has received the most sensitive information important to the national defense and has respected the confidentiality of this information. It has never been necessary for any President to insist on formal procedures or commitments from the Congress.

Today, there are those who question the adequacy of past Congressional review of intelligence activities and this is an issue which should be addressed. But the requirement that substantial parts of the Agency's operation be conducted in secrecy and under tight security arrangements remains. No responsible person questions this. The United States cannot survive in the ^{modern} world of 1975 if it engaged in the self destruction of intelligence services. The hard fact is that a measure of secrecy is essential -- not secrecy from the American people or the Congress, but secrecy to protect us from foreign governments' acquiring knowledge of our plans, policies and operations.

We should realize that there is nothing new in developing effective ways of protecting classified information transmitted to the Congress. For nearly 30 years the Joint Committee on Atomic Energy has had access to the most sensitive national security information. Everyday the Executive Branch works closely with many Committees of Congress in the area of classified information.

However, the House Select Committee has claimed unilateral right to disclose classified information. On September 12, after the House Select Committee unilaterally declassified and published the material in dispute, I felt compelled to advise the Committee that:

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". . . the President's responsibilities for the national security and foreign relations of the United States leave him no alternative but to direct all departments and agencies of the Executive Branch respectively to decline to provide the Select Committee with classified materials, including testimony and interviews which disclose such materials, until the Committee satisfactorily alters its position."

Let me sum up where we stand:

-- I want the House Select Committee to get on with its important work and to complete its investigation in a timely fashion.

-- I want Congress to have the information it needs.

-- I want the American people to have the full benefit of the Congressional inquiries.

The only issue is whether one committee of the Congress will insist on releasing highly sensitive information whenever it sees fit to do so.

I believe that we can find a procedure to protect the rights and obligations of both branches of the government. To this end I am prepared to have representatives of the Intelligence Community meet with representatives of the Congress. Their purpose shall be to arrive at mutually satisfactory arrangements.

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I believe the American people fully support the views that the United States needs foreign intelligence activities to assure its survival and that any compromise of sensitive intelligence sources and methods can only harm our ability to conduct an effective foreign policy and to protect our national interests.

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OFFICE OF THE DIRECTOR

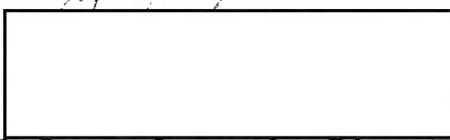
22 September 1975

The Honorable John O. Marsh, Jr.
Counsellor to the President
The Situation Room
The White House
Washington, D. C. 20500

Dear Jack:

Attached is a cleaned-up version of
the draft memorandum I showed you on
Saturday morning.

Cheers,



Special Counsel to the Director

Attachment: a/s sonar 11,508

I-23,1

(EXECUTIVE REGISTRY FILE)

[Handwritten signatures and initials]